

REMARKS

Provisional Rejection Under Obviousness-Type Double Patenting

Claims 1-8 stand provisionally rejected as allegedly unpatentable over claims 10-18 of copending Application No. 09/544,613. Because this is a provisional rejection, submission of a terminal disclaimer would be premature. Claims 10-18 of the copending application could be abandoned or amended to moot the rejection. It should be noted that a provisional rejection cannot be maintained as the sole ground of rejection against an application. Thus, since all other rejections are believed overcome, this provisional rejection must be withdrawn.

Rejection Under 35 U.S.C. §103

Claims 1-19 stand rejected as allegedly being obvious in view of Adur et al. (US 4,537,836) in combination with Nagano (US 4,397,916). This rejection is respectfully traversed.

Adur et al. ('836) discloses an adhesive resin blend comprising a polyethylene of density 0.910 to 0.970 which is grafted with a suitable unsaturated carboxylic acid. In the adhesive blend, this grafted polyethylene is blended with a low density or linear low density polyethylene (density of about 0.910 to 0.945 g/cc) or an ethylene unsaturated ester copolymer resin. Further, the blend contains a poly(α -olefin) which is selected from homopolymers and copolymers of olefin monomers containing 4-15 carbon atoms. See, e.g., column 1, lines 30-54.

In the rejection, it is asserted that U.S. '836 discloses a polyethylene (A1) of relative density between 0.935 and 0.980, referring to column 1 line 44 of U.S. '836. This portion of the disclosure of U.S. '836 refers to the polyethylene of density 0.910 to 0.970 which is grafted with a suitable unsaturated carboxylic acid, i.e., polymer (a). It is also asserted in the rejection that U.S. '836 discloses a polymer (A2) of low density polyethylene and reference is made to the disclosure at column 1, line 46. This portion of the disclosure refers to component (b) which is defined as a low density or linear low density polyethylene of density about 0.910 to 0.945 g/cc or an ethylene unsaturated ester copolymer resin. Thereafter, the rejection asserts that the blend of (A1) and (A2) disclosed by U.S. '836 is cogenerated with an unsaturated carboxylic acid, citing column 1, line 41 and column 3, lines 4-6. However, this assertion is incorrect. U.S. '836 does not disclose that the polymer of component (A) and the polymer of component (B) are cogenerated.

Beginning at column 3, line 55, U.S. '836 describes carboxylic acids that can be used as grafting monomers. The disclosure at column 3, lines 4-6, relied on in the rejection, refers not to

polymers but to additional monomers that can be used in this grafting process, i.e., cografting monomers. It is the polymer (a) component which is grafted and the resultant grafted polymer is then blended with component (b). See column 1, lines 41-45. See also the disclosure at column 3, line 65 – column 4, line 2 which describes the weight percentages of the three main components of the blend, i.e., the graft or cograft polymer, component (b) and component (c). Furthermore, in the rejection, it is asserted that U.S. '836 discloses a content of grafted carboxylic acid of between 30 and 10,000 ppm, referring to column 3, lines 59-60. This portion of the disclosure refers to the amount of grafting monomer present in the grafted polymers or cografted copolymers. This portion of the disclosure does not refer to the content of grafted unsaturated carboxylic acid present in the resultant blend.

It is further asserted that U.S. '836 discloses polyethylene (B) of relative density between 0.93 and 0.95, referring to column 1, line 48 and column 2, line 40. These portions of the disclosure refer to component (c). However, component (c) is not described as a polyethylene, but is instead described as a poly(α -olefin) selected from homopolymers and copolymers of olefin monomers which contain 4-15 carbon atoms, as opposed to 2 carbon atoms.

See also the examples in U.S. '836 which refer to high density polyethylenes grafted with a carboxylic acid anhydride. The examples do not refer to a blend of, for example, a polyethylene of relative density between 0.93 and 0.98 and a very low density polyethylene, which is cografted with an unsaturated carboxylic acid. Further, with regards to component (c), the examples employ a poly(butene-1), not a polyethylene.

Furthermore, U.S. '836 does not disclose a binder that contains 95 to 70 parts of a polyethylene (B) of relative density between 0.93 and 0.95. In regards to component (c), which as noted above is not disclosed as a polyethylene, this component is present in an amount of 0.1 - 60 parts by weight. See the disclosure at column 3, lines 65 – column 4, line 2. The Examiner's assertion regarding optimization does not provide motivation to modify the composition of U.S. '836. If one of ordinary skill in the art were to make an attempt at optimization, one would not go outside the weight percentage ranges described in the reference.

In view of the above remarks, it is respectfully submitted that U.S. '836 provides no suggestion with regards to Applicants' claimed coextrusion binder nor the structures made therefrom. With regards to Nagano U.S. ('916), the Examiner relies on this reference for its disclosure concerning resins for use in layers to be bonded together by a binder. See, for

example, the polar resin layer (B) disclosed at column 7, line 24 – line 51. However, U.S. '916 fails to overcome the discrepancies described above with respect to the disclosure of U.S. '836. Nagano provides no motivation which would lead one of ordinary skill in the art to modify the adhesive composition described by Agur et al. in such a manner as to arrive at an embodiment in accordance with Applicants' claimed invention.

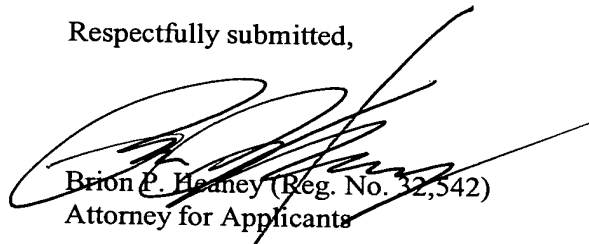
In view of the above remarks, withdrawal of the rejection under 35 U.S.C. § 103 is respectfully requested.

Priority Document

Applicants' request acknowledgement of Applicants' claim of priority under 35 U.S.C. § 119 and receipt of the certified copy of Applicants' priority document.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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